IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH AT BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

WRIT PETITION NO. OF 2004

PETITIONER : JAI BUDHADEV SELF HELP GROUP, ACTING THROUGH ITS PRESIDENT SANTOSH KUMAR DHURVE, S/o.SITARAM DHURVE AGED ABOUT 29 YEARS, R/O.VILLAGE BIRKONA; TAHSIL KAWARDHA, DISTRICT KABIRDHAM (C.G.).

P. R. No. ..... dt. 29.1.04
Presented by Shri ..... Advocate
dated 29.1.04

VERSUS

RESPONDENTS

01) STATE OF CHHATTISGARH ACTING THROUGH PANCHAYAT & SOCIAL WELFARE DEPARTMENT, GOVERNMENT OF CHHATTISGARH, D.K.S.BHAVAN, RAIPUR (C.G.)

02) JANPAD PANCHAYAT, KAWARDHA, ACTING THROUGH ITS CHIEF EXECUTIVE OFFICER, DISTRICT KABIRDHAM (C.G.).

03) DIRECTOR, PANCHAYAT AND SOCIAL WELFARE, GOVERNMENT OF CHHATTISGARH (RAIPUR)

04) JAI LAXMI SELF HELP GROUP (BHADU MATSYA SAMUH) VILLAGE BIRKONA, TAHSIL KAWARDHA, DISTRICT KABIRDHAM (C.G.). ACTING THROUGH ITS PRESIDENT

Received
Notice (2)
Petitioner
29-1-04

RECEIVED COPY
27/1/10
Clerk to A. G. Bilaspur

एस. डी. शुक्ला
बिलासपुर तहसील दार

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT / WRITS, ORDER / ORDERS DIRECTION/DIRECTIONS ETC.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(97)

आदेश पत्रक

मामला क्रमांक WP 286/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

6-2-2004

Shri K.A. Ansari, counsel for the petitioner.

Miss Sharmila Singhai, Deputy Govt. Advocate takes notice for respondents 1 to 3.

Smt. Renu Kochar, counsel for respondent No.4.

Heard.

The petitioner has preferred this petition under Articles 226/227 of the Constitution of India, being aggrieved by the order dated 13-1-2004 passed by the Director of Panchayat in revision No.50-B/121/2003-04 whereby the learned Director of Panchayat has rejected the stay application of the petitioner.

Brief facts giving rise to this petition are that the petitioner group was granted a lease of Darri tank of village Birkona for the purposes of fishing and an agreement, Annexure-P/10, was executed on 20-12-2002 for a period of 10 years. Against that Lakshmi Swa Sahaita Samuh submitted an appeal before the Collector, Kawardha. Despite the fact that there was no ground of appeal and the appeal was not properly constituted, the Collector allowed the appeal vide order dated 8-12-2003 and cancelled the order dated 23-12-2002 of Chief Executive Officer, Janpad Panchayat, Kawardha and in pursuance of this order the Chief Executive Officer, Janpad Panchayat, Kawardha has directed the petitioner to hand over

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(93)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

possession of tank to Janpad Panchayat. The petitioners have challenged the order of Collector dated 30-8-2003 by way of filing the revision before the Director, Panchayat, Govt. of Chhattisgarh and the petitioner has put in fish seeds worth Rs.40,700/- in the tank. After the execution of the agreement, an application for stay of execution of the order of Collector was moved, but the Director, Panchayat has rejected the stay application and one month's time was allowed to the petitioner to take out the fishes from the tank by 12-2-2004 and the revision is pending before the Director, Panchayat.

I have heard the learned counsel for the parties.

Learned counsel for the petitioner submits that the petitioner has already deposited the lease money up to June, 2004 and after taking the tank on lease the petitioner has put the fish seeds in the tank in the first instance of Rs.4600/- and 4900/- and in the second instance the petitioner put the fish seeds of Rs.10,200/- and 21,000/-. The petitioner has deposited two instalments of the lease money i.e. Rs.10,523 and 10,532 in the Janpad Panchayat, Karyalaya, therefore, the petitioner should be allowed to continue fishing.

On the other hand, learned counsel for respondent No.4 argued that the Collector found that the Executive Officer, Janpad Panchayat, Birkona executed a lease in favour of the petitioner before any decision could have been taken by Janpah Panchayat and order

(94)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

were passed by the Collector to set aside the lease deed. The Janpad Panchayat took the decision on 22-12-2003 that the tank should be got vacated from the petitioner and vide resolution dated 31-12-2003 Janpad Panchayat resolved to give the pond on lease to respondent NO.4 and executed the lease deed in favour of respondent No.4 on 5th June 2004.

Having heard the learned counsel for the parties and having regard to the facts and circumstances of the case, if the lease money has already been deposited by the petitioner till June 2004 and in pursuance of the execution of the agreement of the Chief Executive, Janpad Panchayat the petitioner put the seeds of the fish in the pond amounting Rs.40,000/-, I deem it appropriate to direct the Director, Janpad Panchayat to decide the revision within a period of one month and till then the petitioner should not be dispossessed from the tank.

With the direction aforesaid, the writ petition stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C.BHADOO
Judge

Sarwal